

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on January 11, 2001 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **HB 102 - 1-08-01**
HB 196 - 1-08-01

HB 115 - 1-05-01

HB 128 - 1-05-01

Executive Action: HB 115 - DO PASS 20-0

HB 156 - POSTPONED

HEARING ON HB 102

Sponsor: Rep. George Golie, HD 44, Great Falls said HB 102 deals directly with condominiums, condominium owners and condominium associations. This Bill is an Act providing that the percentage of undivided interest of each unit owner in a common element may not be altered unless 75% of unit owners agree. This Bill also clarifies a definition of each unit. The legislation also addresses the number of owners needed to change a declaration for a condominium association.

Proponents: Kenneth G. Robison, Great Falls **EXHIBIT**(juh08a01) and letters he provided to Secretary **EXHIBIT**(juh08a02)

{Tape : 1; Side : A; Approx. Time Counter : 0 - 8.4}

Opponents: None

Questions from Committee Members and Responses: Reps. Noennig, Peterson, Clark, Hurdle, Rice, Wolery to Rep. Golie and Mr. Robison for clarification of the Bill and comparison figures concerning other associations.

{Tape : 1; Side : A; Approx. Time Counter : 8.4 - 26.5}

Closing by Sponsor: Rep. Golie closed the Hearing on HB 102.

HEARING ON HB 196

Sponsor: Rep. Michelle Lee, HD 26, Livingston said this is an issue of fairness to local government. It is a correction of an unfunded mandate. It states that the Department of Corrections will reimburse the counties back to the date of arrest versus the date of conviction.

Proponents: Dan Gutebier, Park County Commissioner, Justice and Public Safety Committee for Montana Association of Counties (MACO) .

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 6.4}

Kathy McGowan, Montana Sheriff and Peace Officers Association said they agreed with what **Rep. Lee** stated in her opening and hoped the Committee would look seriously at passing this Bill as a good public policy move and then refer it to Appropriations, where the fiscal note would be discussed.

Clark Carpenter, Sheriff, Park County spoke of medical problems associated with prisoners in jail, which affects their budget.

Opponents: None

Questions from Committee Members and Responses: **Rep. Younkin** asked **Mr. Gutebier** if the present structure has always been that way? He said yes, however, in the late 1980s there was an attempt to do something similar to this but it didn't make it through the process.

In answer to a question from **Rep. Wolery, Mr. Carpenter** said in Park County they charge \$40 a day for incarceration. That does change somewhat from county to county. In newer jails the cost is \$54 a day for housing. That is what the Department of Corrections pays, which helps reduce their budget.

Reps. Eggers, Clark, Hurdle, Peterson, Harris to Mr. Gutebier, Rep. Lee for clarification.

Rep. Mangan referred a question to **Mr. Sam MacCormack, Lewis and Clark County Sheriff**. If a parolee violates one of his conditions and the probation parole officer arrests him and places him in the Lewis and Clark County jail two days prior to a hearing, do you pay for that or does the Department of Corrections? **Mr. MacCormack** said the Department of Corrections does.

Rep. Harris asked **Joe Williams, Administrator, Department of Corrections** how he enforces the extraction of money from out-of-state jurisdictions. **Mr. Williams** said what normally happens, for instance, when they have taken an offender from the State of Minnesota, or interstate compact, and then send them an offender from the State of Montana, they will keep track of the medical cost and likewise with other states. **Mr. Williams** said they have an interstate compact with most states.

Rep. Eggers said in the last legislative session, a tax reduction bill was passed which reduced taxes in various areas including

business and equipment tax. Has that tax reduction affected the counties? **Mr. Carpenter** said yes, it has affected the counties. The Sheriff's Department has an increase of \$180,000.

Reps. Hurdle, Clancy, Noennig, Mangan, Peterson, Gallus, Shockley to **Mr. Carpenter** and **Mr. Williams** for clarification and further explanation.

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 7.5}

Closing by Sponsor: Rep. Lee closed the Hearing on HB 196.

{Tape : 2; Side : A; Approx. Time Counter : 7.6 - 25}

HEARING ON HB 115

Sponsor: Rep. **Jim Shockley, HD 61** said during the 1999 Session, the Supreme Court made a ruling on statutes relating to weapons. So to simply clarify the statutes there are changes on line 19. "A person found guilty of any offense other than an offense with the use of a weapon while committing a crime, has the benefit of enhancement."

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 2.6}

Proponents: Pam Bucy, Assistant Attorney General

Colleen White, Attorney, Department of Corrections

Opponents: None

Questions from Committee Members and Responses: None

Closing by Sponsor: Rep. Shockley closed the Hearing on HB 115.

HEARING ON HB 128

"An Act creating a Commission on Criminal Statutes Revision; providing for appointments and terms; providing Commission duties; directing the Commission to make regular reports and recommendations to an Interim Committee of the Legislature; providing an appropriation and effective dates."

Sponsor: Rep. **Jim Shockley, HD 61** said this is another Bill from the Law, Justice and Indian Affairs. The criminal statutes are important to the jurisdiction of the Law of Justice and Indian Affairs. These statutes occasionally need to be reviewed. There

are 400 misdemeanor statutes scattered throughout the code. They can address such things as the Sentence Review Board, the Parole Board and the judges to make the system function more in sync and more economically. The Bill is drafted quite broadly because there were a lot of people who had an interest in it.

Proponents: None

Opponents: None

Questions from Committee Members and Responses: Reps. Mangan, Harris, Hurdle, Mangan to Rep. Shockley for suggestions and clarification. Rep. Shockley said it will be between six months and a year before they actually have the systems up and working because they don't want to switch from the old to the new until they are sure they have the new system working properly.

Rep. Gutsche said she would like to suggest, if this Bill passes, that the Commission take a harder line on this than monitoring and recommend what the data base might be.

Rep. Eggers reported to the Committee that tomorrow he has a meeting with the Attorney General regarding two of his Bills, including HB 189, which is also a data collection Bill, and he intends to explore with him not only where they are in the digital world and how they can provide digital input in terms of informational data collection, but how it will affect this Bill as they are similar.

Closing by Sponsor: Rep. Shockley closed the Hearing on HB 128.

EXECUTIVE ACTION ON HB 115

Motion/Vote: REP. SHOCKLEY moved that HB 115 DO PASS. Motion carried unanimously. #1

{Tape : 2; Side : B; Approx. Time Counter : 2.6 - 29.7}

Discussion: Rep. Shockley asked John MacMaster for clarification concerning Consent Calendar. Mr. MacMaster said if a House committee unanimously votes that a Bill Do Pass, and then follows that with a unanimous vote that the Bill be put on the House Consent Calendar, there is then a procedure in place whereby the Bill will be put on what is called a Consent Calendar in the House. What happens then is the Bill bypasses second reading and it goes directly to third reading. It is then put on the Consent Calendar order of business for at least one day. If any member of the House requests that not happen, it can be put on second

reading. It is done for Bills the Committee thinks are not controversial.

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 29.7}

EXECUTIVE ACTION ON HB 115

Motion: REP. EGGERS moved HB 115 be put on the Consent Calendar.
#2

Discussion: Reps. Adams, Shockley, Noennig to John MacMaster who advised this is House Rule 40-110. Rep. Noennig made a comment that the purpose of that procedure is to expedite Bills when they are in a time crunch. He is reluctant to enter into this procedure at this time, even though this Bill may be the appropriate one, because it gives new members an opportunity to see how the process works.

Rep. Eggers said he made the motion at this time to encourage the Committee to discuss it and how to use some protocol.

Vote: Rep. Eggers motion failed 6-12 with Reps. Laszloffy, Clark, Adams, Gutsche, Holden, Hurdle, Mangan, Noennig, Peterson, Thomas, Wolery and Younkin voting no.

Motion: REP. MANGAN moved that HB 102 DO PASS. #3

Discussion: Rep. Eggers, Peterson, Noennig, Clark, Hurdle, Harris, Mangan voiced concerns and opposition to this Bill. Rep. Noennig explained the law of voting on condominium problems and gave further clarification.

Vote: Motion failed 1-18 with Rep. Shockley voting yes.

Motion/Vote: Rep. Noennig moved to Table HB 102. #4 Motion carried unanimously 19-0.

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 17.7}

EXECUTIVE ACTION ON HB 156

Motion: REP. MANGAN moved that HB 156 DO PASS. #5

Discussion: Reps. Laszloffy, Mangan, Harris, Peterson, Noennig, Wolery, Eggers, Newman, Clancy, Clark and Shockley expressed their concerns with this Bill.

Motion/Vote: Rep. Clancy moved to postpone action on HB 156. #6
Motion carried unanimously 19-0.

ADJOURNMENT

Adjournment: 10:55 A.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh08aad)